

As for the request for a Memorandum to the Bureau of Prisons, I decline to provide it. First, the defendant has not shown that he has pursued his administrative remedies in requesting the credit he seeks. Second, the transcripts of the hearings of September 23 and December 20, 2010, demonstrate clearly that at the time I had no clear understanding of how he would be credited,

although it appears that the topic was on the defendant's mind. Tr. of Revocation Hr'g & Waiver/Plea, Sept. 23, 2010 (Docket Item 83); Tr. of Sentencing, Dec. 20, 2010 (Docket Item 82). In fact, on December 20, 2010, I ended his questioning about custody status by stating: "Why don't you talk to your lawyer. I can't give you legal advice. Talk to your lawyer. Sit down and have a discussion with your lawyer." He did so and then I inquired "All set?" to which he responded "Yes," and I adjourned the proceeding. Tr. of Sentencing, Dec. 20, 2010 at 16-17.

The motion is therefore **DENIED**.

So ORDERED.

DATED THIS 21ST DAY OF NOVEMBER, 2011

/s/D. BROCK HORNBY

D. BROCK HORNBY

UNITED STATES DISTRICT JUDGE